

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:19-cv-00252-MR-WCM

SELECTIVE INSURANCE
COMPANY OF AMERICA,
a/s/o The Country Club of
Sapphire Valley, Inc.

PLAINTIFF,

V.

BLOSSMAN GAS OF
NORTH CAROLINA, INC.,

DEFENDANT.

ORDER

Before the Court is a Joint Motion for Extension of Time to Complete Expert Discovery, File Daubert Motions, and to Designate Frank Goldsmith as Mediator or in the Alternative to Schedule a Conference with the Court (the “Motion,” Doc. 38).

The current and proposed deadlines are:

	Current	Proposed
Expert		
Discovery:	October 8, 2021	November 17, 2021
Mediation:	October 15, 2021	unchanged
Motions:	October 15, 2021	December 3, 2021

The pretrial deadlines have been amended multiple times. See Doc. 15, Doc. 17, Doc. 23, Doc. 30, & Doc. 35.

Most recently, on April 16, 2021, a hearing on Defendant's Unopposed Motion for Entry of Fourth Amended Scheduling Order was conducted. During that hearing, the undersigned discussed possible future extensions with the parties, and counsel indicated that further extension requests were not likely. Following the hearing, the undersigned granted the request for entry of a Fourth Amended Scheduling Order in part and took the "opportunity to address the potential for yet further extensions of the pretrial schedule, particularly as the parties have indicated that a significant amount of discovery is yet to be completed." Doc. 36 at 2. In that regard, the undersigned stated as follows:

during the hearing, counsel for both parties stated that they believe all remaining discovery, both fact and expert, can be completed during the remaining discovery period, as now extended by this Order.

The undersigned notes that multiple lawyers appear in this case for each side and that, notwithstanding the apparent complexity of the case and the number of depositions the parties have chosen to take, it appears that sufficient time is available to complete pretrial preparations. That is, while there have been extenuating and unusual circumstances in this matter that have justified multiple extensions of the pretrial deadlines, as discussed during the hearing, the Court believes all pretrial matters can and should be concluded within the schedule, as now extended, and, consequently, respectfully advises the parties that no further extensions will be granted absent truly extraordinary circumstances.

Doc. 36 at 2-3.

By the current Motion, the parties assert that further extension of the deadline to complete expert discovery and the deadline to file motions is necessary. As a basis for this request, the parties explain that, in an effort to mitigate expenses, they previously agreed to mediate prior to conducting expert depositions and had scheduled a mediation with Wayne Huckel to occur on September 21, 2021. However, due to the resetting of a trial in the Northern District of Texas, counsel for Defendant is unavailable for the September 21 mediation, and Mr. Huckel is not available to conduct the mediation the following week. Doc. 38 at 2. The parties further advise that they are scheduled to conduct mediation with Frank Goldsmith instead on September 29, 2021. Doc. 38 at 2. Considering this new mediation date, and because the parties “anticipate taking in excess of a dozen expert depositions,” the parties seek an extension of the deadline to complete expert discovery and file motions.

While the parties’ desire to mitigate expenses is acknowledged, the Motion does not reveal the existence of extraordinary circumstances necessary to justify a further extension of the pretrial deadlines. Accordingly, the parties’ request for additional time to complete expert discovery and file dispositive motions will be denied. The parties remain free, however, to conduct voluntary discovery, as limited by the pretrial order.

The parties' request to designate Frank Goldsmith as their mediator will be allowed.

IT IS THEREFORE ORDERED that the Joint Motion for Extension of Time to Complete Expert Discovery, File Daubert Motions, and to Designate Frank Goldsmith as Mediator or in the Alternative to Schedule a Conference with the Court (Doc. 38) is **DENIED IN PART** and **GRANTED IN PART**, as set forth herein.

Signed: August 31, 2021

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

